

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA

v.

Criminal No. 07-189-GZS

DANIEL RILEY, JASON GERHARD and
CIRINO GONZALEZ,

Defendants

**ORDER DENYING DEFENDANT GONZALEZ'S
MOTION TO RECONSIDER REQUEST FOR CONTINUANCE**

Defendant Gonzalez has filed a Motion to Continue Trial (Docket No. 403) and a Motion to Clarify his Motion to Continue Trial (Docket No. 405). The stated basis for the first Motion to Continue Trial was that “counsel is scheduled to start a jury trial in this court on June 3, 2008 (U.S. v. McFadden, et al.; 1:06-cr-226-02). Trial is expected to last two weeks. Counsel’s schedule precludes a trial in these matters earlier than August.” Before the Court ruled on the Motion to Continue, Defendant Gonzalez filed a Motion to Clarify Request for Continuance elucidating two points: (1) that “trial in this matter should take no longer than four or five days” and (2) “this counsel is scheduled to draw a jury on August 4, 2008 in a case that should only take five days...[such that] [t]rial on or after the week of August 17, 2008 is practicable considering everyone’s schedule.” Motion to Clarify his Motion to Continue Trial at 1. Thereafter, the Court granted the Motion to Clarify and denied the Motion to Continue.

Defendant has now filed a Motion to Reconsider Request for Continuance. (Docket No. 415). In the instant Motion, Defendant states, in pertinent part:

4. As indicated in the prior request, counsel is scheduled to select a jury in this Court on June 3, 2008 (U.S. v. McFadden, et al., 1:06-cr-226-02-PB). Trial is scheduled to commence on June 9, 2008 and 2 weeks has been reserved for trial.

5. Due to this trial schedule, it would simply be impossible to select a jury on June 18, 2008 and begin trial on June 23, 2008. Counsel could not adequately prepare in the time frames currently scheduled. Even assuming that the other matter is somehow resolved, counsel for the defendant still could not adequately prepare this case in the time frames currently scheduled.

6. In addition, counsel has personal matters scheduled at the University of Maryland in the late June time frame.

7. Additional time in which to prepare for trial is needed to afford the defendant effective assistance of counsel.

In considering Defendant Gonzalez's Motion, the Court has reflected on the fact that this is a retrial of two Counts that counsel tried less than a month ago. In addition, the Court believes that counsel has ample time to prepare to try the case in the almost two months between now and the June 23, 2008 trial date. The Court notes that, other than his unavailability the week of August 4, 2008 because he is scheduled for trial in another case, counsel has failed to provide, in the three separate filings, any precise reason for continuing the trial until mid-August.¹ With respect to the potential conflict between the trial in United States v. McFadden, 06-226 and jury selection in this case, both cases are to be tried at the United States District Court in Concord New Hampshire and the Court will deal with any scheduling issues that arise if jury selection overlaps with the presentation of evidence or argument in United States v. McFadden, 06-226.

¹ Because of the vagueness of counsel's statement regarding "personal matters at the University of Maryland in the late June time frame", the Court is unable to consider that aspect of the Motion.

Accordingly, the Court **ORDERS** that Defendant Gonzalez's Motion to Reconsider Request for Continuance be, and it is hereby, **DENIED**.

/s/ George Z. Singal
Chief United States District Judge

Dated this 6th day of May, 2008.